

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
(Western Division)

KARLA O'NEILL NORAMBUENA,
NATALIA TAPIA LEIVA, ALMENDRA
GONZALEZ DE LA PAZ, DAVID SILVA
MORENO, FERNANDO VILCHES
CASTILLO, CLAUDIO RAMOS,
ALEJANDRO PIZARRO, EDUARDO
ANTONIO MUÑOZ VARGAS, CARILYNS
SARAI CAMUS JORQUERA, GONZALO
ESCOBAR ESPEJO, CATALINA NOEMI
RIVAS MORALES, BAIRON MOREL
GUERRA, DIEGO CRISTOBAL
AHUMADA SOULODRE, and NESTOR
ACEVEDO,

Plaintiffs,

vs.

WESTERN IOWA TECH COMMUNITY
COLLEGE (WITCC); TERRY YI; ROSANA
SALGADO BURRIGHT; JULINE ALBERT;
TERRY MURELL; JAMES ZUERCHER;
LILY CASTRO; PREMIER SERVICES,
INC., d/b/a J&L Enterprises, also d/b/a J&L
Staffing and Recruiting Inc.; NANCY
ALBRECHT; CARLOS ESPINOZA;
SOLEDAD ROJAS; JORGE ARCOS;
CRISTIAN SAN MARTIN MATTA;
TUR-PAK FOODS, INC., & ROYAL
CANIN USA INC.;

Defendants.

Case No. 5:20-cv-04054-LTS-KEM

**ALL DEFENDANTS' JOINT
APPLICATION FOR STAY AND
MOTION FOR STATUS CONFERENCE

EXPEDITED RELIEF REQUESTED**

COME NOW all of the above-named Defendants (collectively the "Defendants"), through undersigned counsel, and submit this Joint Application for Stay and Motion for Status Conference as follows:

1. On or about March 15, 2021, each of the Defendants filed a pre-Answer Motion to Dismiss related to the claims brought by Plaintiffs in their Second Amended Complaint (hereinafter “SAC”). Defendant Western Iowa Tech Community College (hereinafter “WITCC” and individual WITCC Defendants Yi, Burright, Albert, Murell, Zuercher, and Castro also filed a Motion to Strike.

2. On or about April 29, 2021, the Plaintiffs filed Resistances to each of the respective Motions to Dismiss and a Resistance to the Motion to Strike. Pursuant to Local Rule 7(g), replies in support of the pending Motions to Dismiss are due on May 6, 2021.

3. However, at the same time of the filings of the Resistances, the Plaintiffs also filed a Motion for Leave to file a Third Amended Complaint (hereinafter “TAC”). If this Motion for Leave to file a TAC is granted, the TAC becomes the operative pleading on behalf of Plaintiffs and any briefing on motions to dismiss any prior pleadings would become moot.

4. Further complicating the situation, the Resistances attempt to defeat the Defendants’ Motions to Dismiss by referring to and relying upon for support allegations contained in the pending TAC. Because the TAC was not the operative pleading to which the Motions to Dismiss were directed, this approach by Plaintiffs is procedurally improper and the Resistances cannot be appropriately addressed via Replies by Defendants. Defendants’ position is that this will require that the Defendants reform and resubmit their respective Motions to Dismiss to respond to the newly-filed TAC allegations.

5. While the Defendants may not resist the Motion for Leave to Amend to file the TAC, the fact that it was filed contemporaneously with the Resistances filed by Plaintiffs now impacts pleading deadlines for Defendants and requires that all pleadings related to the Motions

to Dismiss and the Motion to Strike be stayed pending a determination of the Court as to whether the Motion for Leave to Amend for the TAC will be granted.

6. Effectively, Plaintiffs have put all Defendants in a position where they must not only reply to lengthy resistances in a short time-frame, Defendants must do so while simultaneously picking through multiple versions of complaints to discern which facts and claims merit a response. Defendants now seek the Court's assistance to course correct this matter procedurally and allow for proper pleading, briefing and any subsequent rulings.

7. It is because of the unusual procedural posture brought on by the contemporaneous filing noted above that the Defendants believe a status conference with the Court will help expedite a resolution to this morass.

8. This filing is made not for the purpose of delay but to merely seek the Court's intervention to resolve unique procedural issues that could prove dispositive.

WHEREFORE, all the of the above-named Defendants respectfully request the Court stay all pleadings related to the pending Motions to Dismiss and Motion to Strike and that the Court set a status conference for as soon as practicable to address the procedural issues created by Plaintiffs' pending Third Amended Complaint and, finally, for such other and further relief as this Court deems equitable and just.

/s/ Scott M. Brennan

Scott M. Brennan, AT0001100

Holly M. Logan AT0004710

Elizabeth S. Van Arkel AT0011370

Spencer M. Willems AT0014087

Sarah E. Friedrichs, AT0014395

Dentons Davis Brown PC

215 10th Street, Suite 1300

Des Moines, Iowa 50309
Telephone: (515) 288-2500
Facsimile: (515) 243-0654
Email: scott.brennan@dentons.com
holly.logan@dentons.com
elizabeth.vanarkel@dentons.com
spencer.willems@dentons.com
sarah.friedricks@dentons.com

ATTORNEYS FOR DEFENDANTS WESTERN
IOWA TECH COMMUNITY COLLEGE,
TERRY YI, ROSANA SALGADO BURRIGHT,
JULINE ALBERT, TERRY MURELL, JAMES
ZUERCHER, and LILY CASTRO

/s/ Sarah J. Millsap
Sarah J. Millsap
Brock J. Pohlmeier
Jackson Lewis, P.C.
10050 Regency Circle, Suite 400
Omaha, NE 68114
Email: sarah.millsap@jacksonlewis.com
Email: brock.pohlmeier@jacksonlewis.com
ATTORNEYS FOR DEFENDANTS
PREMIER SERVICES INC. AND NANCY
ALBRECHT

/s/ Matthew Dixon
Matthew Dixon
Gordon Rees Scully Mansukhani LLP
699 Walnut Street, 4th Floor
Des Moines, IA 50309

Email: mdixon@grsm.com
ATTORNEYS FOR DEFENDANT
TUR-PAK FOODS, INC.

/s/ Ryland Deinert
Ryland Deinert
Klass Law Firm, L.L.P.
Mayfair Center, Upper Level
4280 Sergeant Road, Suite 290
Sioux City, IA 51106
Email: deinert@klasslaw.com

/s/ Elizabeth S. Ralph
Elizabeth S. Ralph (*admitted pro hac vice*)
Matthew Cannon (*admitted pro hac vice*)
Greenberg Traurig, PA
77 West Wacker Drive, Suite 3100
Chicago, Illinois 60601
Email: ralphe@gtlaw.com
Email: cannonm@gtlaw.com
ATTORNEYS FOR DEFENDANT
ROYAL CANIN USA INC

Copy to:

Brandon Brown
Benjamin Bergmann
Parrish Kruidenier Dunn Gentry
Brown Bergmann & Messamer, L.L.P.
2910 Grand Avenue
Des Moines, Iowa 50312
Email: bbrown@parrishlaw.com
bbergmann@parrishlaw.com
ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on May 5, 2021 I electronically filed the foregoing with the Clerk of the Court using the court's electronic filing system which sent notification of such filing to all parties of record.

/s/ Scott M. Brennan